

Remarks/Arguments

Reconsideration of this application in light of the following remarks is requested.

Rejections Under 35 U.S.C. §103

Independent claims 1, 6, 18, and 21

Claims 1 and 6 were rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 6,115,646 to Fiszman, et al ("Fiszman") in combination with what the Examiner stated would have been obvious to one of ordinary skill in the art. In response, the Applicant asked the Examiner to provide a reference for what was alleged to be obvious to one of ordinary skilled in the art. In the latest Official Action, the Examiner has cited the Applicant's own specification as a reference in support of what is obvious to one of ordinary skill in the art and has extended this line of reasoning to reject claims 18 and 21.

The Applicant respectfully disagrees that in this instance the Applicant's own specification may be cited against the claims as what is obvious to one of ordinary skill in the art. On page 12 of the Official Action, the Examiner points to language in the specification stating, "[an] application server [] is a software application that is capable of executing the commands contained in the scripts [and] can be coupled to any application platform, which can be any form of a hardware and/or software system." (Specification, paragraph 22). Although the MPEP §2129 allows an admission of prior art to be cited against the Applicant as prior art, the Applicant has not stated or otherwise admitted that the cited portions of the application constitute prior art. Nor has the Applicant indicated that it would be obvious to combine these enabling statements with the additional claim elements of each claim. It is not the application server or the application platform that is being claimed, but "a virtual machine with reflection" in combination with other claim elements.

In further support of the rejections, the Examiner has cited Ex Parte Clapp, 227 U.S.P.Q. 972 (Bd. Pat. App. & Inter., 1985). However, a reading of Clapp indicates that Clapp stands for the proposition that, "the references must expressly or impliedly suggest the claimed combination or the examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references." Id. at 973. The Applicant fails to understand how, or if, this case is relevant to the Examiner's use of the Applicant's specification as evidence of what is obvious to one of ordinary skill in the art. The Applicant respectfully submits that the Clapp case makes the Applicant's point once again that the Examiner must supply relevant references in support of the rejection of the Applicant's claims.

The Applicant respectfully submits that since independent claims 1, 6, 18, and 21 have not been properly rejected, the rejections should be withdrawn. Since dependent claims 2-3, 7-16, and 18-20 further limit and depend from independent claims 1, 6, and 18, the Applicant submits that these claims are allowable as well.

Independent claim 17

Regarding claim 17, the Applicant previously requested that the Examiner supply a reference in support of what is well known in the art. The Applicant thanks the Examiner for supplying U.S. Patent No. 6,362,836 to Shaw, et al. ("Shaw"). However, the Examiner's rejection of claim 17 in the current Official Action states that, "Fizman et. al. does not explicitly disclose executing the selected application by interpreting the script and using a virtual machine with reflection... It would have been obvious to one of ordinary skill in the art." Here, regarding the instant claim element, the Official Action does not cite any reference in support of what is obvious to one of ordinary skill in the art. Furthermore, the Examiner states that, "Applicant has not disclosed that utilizing a virtual machine with reflection to execute a script provides an advantage, is used for a particular purpose, or solves a states problem." The Applicant respectfully submits once again that unless the Examiner provides a prima facie case of obviousness, which

is not the case here, the Applicant is under no obligation to submit evidence of nonobviousness. MPEP § 2142. Applicant therefore submits that claim 17 is also allowable.

Conclusion

It is clear from all of the foregoing that independent claims 1, 6, 17, 18, and 21 are in condition for allowance. Dependent claims 2-3, 7-16, and 19-20 depend from and further limit independent claims 1, 6, 17, and 18 and therefore are allowable as well.

Notice of allowance of claims 1-3 and 6-21 is requested.

Respectfully submitted,

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